

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
|-----------------|-------------|----------------------|---------------------|

09/641,345 08/18/00 NAKANO

N 24350

PM82/0913

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EXAMINER

EDFLL, J

ART UNIT

PAPER NUMBER

3636

DATE MAILED:

09/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/641,345

Applicant(s)

NAKANO, NOBUYUKI

Examiner

Joseph F Edell

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 August 2000.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 10-13, 26 and 29 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9, 14-25, 27, 28 and 30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 August 2000 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 & 1
- 4) Interview Summary (PTO-413) Paper No(s) _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other:

DETAILED ACTION

Election/Restrictions

1. During a telephone conversation with Marvin Berkowitz on 5 September 2001 a provisional election was made without traverse to prosecute the invention of seatback for automobiles (Figs. 5-8), claims 1-9, 14-25, 27, 28, and 30. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-13, 26, and 29 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 39B and 40B. Correction is required.

Specification

3. The disclosure is objected to because of the following informalities: the two paragraphs on page 8, lines 7-21 are incomprehensible and should be revised. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 15, the phrase "the support member for a load by a pressurizing element to be applied to at the proximal end thereof;" in lines 5-7 is unclear rendering the scope of the claim indefinite.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. Claims 1-9, 14-25, 27, 28, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,250,714 B1 to Nakano et al.

Nakano et al. disclose in Figures 1-8 a seatback for an automobile that includes all the limitations recited in claims 1-9, 14-25, 27, 28, and 30. The seatback includes a headrest 3 (Fig. 1), a supporting member 7 (Fig. 3) with an intermediate part and distal and proximal ends, an I-shape pressure receiving member 4 (Fig. 3) with cover 31 (Fig. 3), an upper-cross frame member 2a (Fig. 3) with first stopper face 34 (Fig. 6) and

second stopper face 24 (Fig. 3), a biasing means 18 (Fig. 3), and a spring resilient member 16 (Fig. 3).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to seatback for automobiles:

U.S. Pat. No. 2,973,029 to Schlosstein

U.S. Pat. No. 3,802,737 to Mertens

U.S. Pat. No. 5,795,019 to Wieclawski

U.S. Pat. No. 5,884,968 to Massara

U.S. Pat. No. 6,199,947 B1 to Wiklund

Jap. Pat No. 2000-201770 to Tan

Jap. Pat. No. 2000-217660A to Nakano

Jap. Pat. No. 2001-39194A to Nakano

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JE
September 9, 2001



Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600